

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0744P

**Individual Income Tax
Calendar Year 1997**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. **Tax Administration**— Underpayment Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer's Trustee, in a letter dated November 25, 1998 protested the penalty assessed and states it should not pay a penalty as all of the assets have been distributed. Taxpayer's Certificate of Death states she died on August 21, 1997.

The Department assessed a civil penalty in the amount of \$55.48 for failure to make estimated tax payments.

I. **Tax Administration**— Underpayment Penalty

DISCUSSION

Taxpayer's Trustee requests the department waive the penalty assessed because the estate of the deceased is closed and all assets have been distributed.

The 1997 Indiana Resident Individual Tax Booklet, page 29, clearly states who must make estimated income tax payments. An ES-40 Estimated Tax Payment coupon and an Estimated Income Tax

Worksheet are included on the page.

IC 6-3-4-4.1 (c) states:

Every individual who has gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable years. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than four hundred dollars (\$400). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

The IT-40 return, line 31 also clearly lists penalty for underpayment of estimated tax for 1997.

Taxpayer's date of death was August 21, 1997. Quarterly estimated payments are due on April 15, June 15, September 15 and January 15. Taxpayer made no estimated payments in the first two quarters before her death. The return was not filed until March 28, 1998 with a balance due of \$814.00

FINDING

Taxpayer's protest is denied.